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HOUSE BILL 623

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Stevan E. Pearce

AN ACT

RELATING TO PUBLIC EMPLOYEES; AMENDING THE PUBLIC EMPLOYEES  
RETIREMENT ACT TO PROHIBIT A RETIRED PUBLIC EMPLOYEE FROM  
SUBSEQUENT EMPLOYMENT WITH A PUBLIC EMPLOYER.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-11-8 NMSA 1978 (being Laws 1987,  
Chapter 253, Section 8, as amended) is amended to read:

"10-11-8. NORMAL RETIREMENT--SUSPENSION. --

A. A member may retire upon fulfilling the  
following requirements:

(1) a written application for normal  
retirement, in the form prescribed by the association, is  
filed with the association prior to the selected date of  
retirement;

(2) employment is terminated with all

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1 employers covered by any state system or the educational  
2 retirement system prior to the selected date of retirement;

3 (3) the member selects an effective date of  
4 retirement that is the first day of a calendar month; and

5 (4) the member meets the age and service  
6 credit requirement for normal retirement specified in the  
7 coverage plan applicable to the member.

8 B. The amount of normal retirement pension is  
9 determined in accordance with the coverage plan applicable to  
10 the member.

11 C. If a member retires and is subsequently  
12 employed by any affiliated public employer, the retired  
13 member's pension will be suspended effective the first day of  
14 subsequent employment the month following the month in which  
15 the previously retired member earns one hundred percent or  
16 more of the amount that causes a decrease or suspension of an  
17 old age benefit under the federal social security program or  
18 fifteen thousand dollars (\$15,000), whichever is less. When  
19 the pension is suspended, the following conditions shall  
20 apply:

21 (1) the retired member who is subsequently  
22 employed by an affiliated public employer shall become a  
23 member. The previously retired member and the subsequent  
24 affiliated public employer shall make the required employee  
25 and employer contributions, and the previously retired member

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1 shall accrue service credit for the period of subsequent  
2 employment; and

3 (2) when a previously retired member  
4 terminates the subsequent employment with an affiliated public  
5 employer, he shall retire according to the provisions of the  
6 Public Employees Retirement Act, subject to the following  
7 conditions:

8 (a) payment of the pension shall resume  
9 in accordance with the provisions of Subsection A of this  
10 section;

11 (b) unless the previously retired  
12 member accrued at least three years of service credit on  
13 account of the subsequent employment, the recalculation of  
14 pension shall: 1) employ the form of payment selected by the  
15 previously retired member at the time of the first retirement;  
16 and 2) use the provisions of the coverage plan applicable to  
17 the member on the date of the first retirement; and

18 (c) the recalculated pension shall not  
19 be less than the amount of the suspended pension.

20 ~~[D.—The provisions of Subsection C of this section~~  
21 ~~shall not apply to a retired member who is appointed chief of~~  
22 ~~police of an affiliated public employer, other than of the~~  
23 ~~affiliated public employer from which retired, or who is~~  
24 ~~appointed undersheriff if the retired member files an~~  
25 ~~irrevocable exemption from membership with the association~~

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1 ~~within thirty days of appointment. For purposes of this~~  
2 ~~subsection, each sheriff's office shall be limited to one~~  
3 ~~undersheriff. The irrevocable exemption shall be for the~~  
4 ~~chief of police's or the undersheriff's term of office.~~  
5 ~~Filing of an irrevocable exemption shall irrevocably bar the~~  
6 ~~retired member from acquiring service credit for the period of~~  
7 ~~exemption from membership.]~~

8           ~~[E.]~~ D. The provisions of Subsection C of this  
9 section shall not apply to any retired member who is  
10 subsequently employed by an employer who is not an affiliated  
11 public employer.

12           ~~[F.]~~ E. The provisions of Subsection C of this  
13 section shall not apply to a retired member who is elected to  
14 serve a term as an elected official if the retired member  
15 files an irrevocable exemption from membership with the  
16 association within thirty days of taking office. Filing of an  
17 irrevocable exemption shall irrevocably bar the retired member  
18 from acquiring service credit for the period of exemption from  
19 membership.

20           ~~[D.]~~ F. The pension of a member who has three or  
21 more years of service credit under each of two or more  
22 coverage plans shall be determined in accordance with the  
23 coverage plan that produces the highest pension. The pension  
24 of a member who has service credit under two or more coverage  
25 plans but who has three or more years of service credit under

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1 only one of those coverage plans shall be determined in  
2 accordance with the coverage plan in which the member has  
3 three or more years of service credit. If the service credit  
4 is acquired under two different coverage plans applied to the  
5 same affiliated public employer as a consequence of an  
6 election by the members, adoption by the affiliated public  
7 employer or a change in the law that results in the  
8 application of a coverage plan with a greater pension, the  
9 greater pension shall be paid a member retiring from the  
10 affiliated public employer under which the change in coverage  
11 plan took place regardless of the amount of service credit  
12 under the coverage plan producing the greater pension,  
13 provided the member has three or more years of continuous  
14 employment with that affiliated public employer immediately  
15 preceding or immediately preceding and immediately following  
16 the date the coverage plan changed. The provisions of each  
17 coverage plan for the purpose of this subsection shall be  
18 those in effect at the time the member ceased to be covered by  
19 the coverage plan. "Service credit", for the purposes of this  
20 subsection, shall be only personal service rendered an  
21 affiliated public employer and credited to the member under  
22 the provisions of Subsection A of Section 10-11-4 NMSA 1978.  
23 Service credited under any other provision of the Public  
24 Employees Retirement Act shall not be used to satisfy the  
25 three-year service credit requirement of this subsection. "

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